



**6712-01**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **Privacy Act System of Records**

**AGENCY:** Federal Communications Commission (FCC, Commission, or the Agency).

**ACTION:** Notice; one altered Privacy Act system of records; one new routine use.

**SUMMARY:** Under subsection (e)(4) of the Privacy Act of 1974, as amended (“Privacy Act”), 5 U.S.C. 552a, the FCC proposes to change the name and alter one system of records, FCC/OMD-3, “Federal Advisory Committee Act (FACA) Membership Files” (formerly FCC/OMD-3, “Federal Advisory Committee (FACA) Membership Files”). The FCC will alter the security classification; the system location(s); the categories of individuals; the categories of records; the authority for maintenance of the system; the purposes for which the information is maintained; three routine uses (and add routine use (7)); the storage, retrievability, safeguards, and retention and disposal procedures; the system manager and address; the notification, record access, and contesting record procedures; the record source categories; and make other edits and revisions as necessary to update the information and to comply with the requirements of the Privacy Act, as amended (5 U.S.C. 552a), and the regulations and requirements of the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA).

**DATES:** In accordance with subsections (e)(4) and (e)(11) of the Privacy Act, any interested person may submit written comments concerning the alteration of this system of records on or before **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION]**. The Office of

Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act to review the system of records, and Congress may submit comments on or before **[INSERT DATE 40 DAYS FROM DATE OF PUBLICATION]**. The proposed altered system of records will become effective on **[INSERT DATE 40 DAYS FROM DATE OF PUBLICATION]** unless the FCC receives comments that require a contrary determination. The Commission will publish a document in the **Federal Register** notifying the public if any changes are necessary. As required by 5 U.S.C. 552a(r) of the Privacy Act, the FCC is submitting reports on this proposed altered system to OMB and to both Houses of Congress.

**ADDRESSES:** Address comments to Leslie F. Smith, Privacy Analyst, Performance Evaluation and Records Management (PERM), Room 1-C216, Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, (202) 418-0217, or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov) <<mailto:Leslie.Smith@fcc.gov>>.

**FOR FURTHER INFORMATION:** Contact Leslie F. Smith, Performance Evaluation and Records Management (PERM), Room 1-C216, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, (202) 418-0217, or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of the proposed alteration of one system of records maintained by the FCC, the revision of three routine uses, and the addition of one new routine use (7). The FCC previously gave complete notice of this system of records (formerly FCC/OMD-3, “Federal Advisory Committee Membership Files (FACA)”) covered

under this Notice by publication in the **Federal Register** on April 5, 2006 (71 FR 17234, 17249).

This notice is a summary of the more detailed information about the proposed altered system of records, which may be obtained or viewed under the contact and location information given above in the “**ADDRESSES**” section. The purposes for altering FCC/OMD-3, “Federal Advisory Committee Act Membership Files (FACA),” are to change the title of the system of records to be consistent with the title of the Act creating these advisory committees (i.e., FCC/OMD-3, “Federal Advisory Committee Act (FACA) Membership Files”); to revise the security classification; to revise the system location(s); to revise the categories of individuals; to revise the categories of records; to revise the purposes for which the information is maintained; to revise Routine Uses (2), (5), and (6) and to add one new Routine Use (7); to revise the storage, retrievability, safeguards, and retention and disposal procedures; to revise the system manager and address; to revise the notification, record access, and contesting record procedures; to revise the record source categories; and to make other edits and revisions as necessary to update the information and to comply with the requirements of the Privacy Act, as amended (5 U.S.C. 552a), and the regulations and requirements of the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA).

The FCC will achieve these purposes by altering this system of records with these changes:

Revision of language in the security classification, for clarity and to note that [t]he FCC’s Security Operations Center (SOC) has not assigned a security classification to this system of records;

Revision of the language in the system location(s), for clarity and:

(1) To update information concerning the General Files, Financial Disclosure Files, and Committee-specific Files:

1. General Files: Associate Managing Director-Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554; (202) 418-2178.
2. Financial Disclosure Files (i.e., OGE Form 450 and FCC Form A54A): Office of General Counsel (OGC), Federal Communication Commission (FCC), 445 12<sup>th</sup> Street, SW, Washington, DC 20554; (202) 418-1720;
3. Committee-specific Files: Information concerning the FCC's current FACA Committees may be found at: <http://www.fcc.gov/encyclopedia/advisory-committees-fcc>.

Revision of the language regarding the Categories of Individuals Covered by the System, for clarity and to note that [t]he categories of individuals in this system include, but are not limited to those individuals who are:

1. Members of Federal Advisory Committee Act (FACA) committees (“advisory committee” or “committee”) sponsored or co-sponsored by the Federal Communications Commission (FCC);
2. Individual participants in FACA working groups/subcommittees (who are not necessarily appointed members of the advisory committee); and

3. Administrative Assistant(s) or other similar contact(s) within the organization that an advisory committee member represents.

Revision of the language regarding the Categories of Records in the System, for clarity and to note that [t]he categories of records include, but are not limited to:

1. FACA Committee Members:

Member's full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (e.g., which includes, but is not limited to the reference's name, address, telephone numbers(s), e-mail address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

2. Individual participants in FACA working groups/subcommittees (who are not necessarily appointed members of the advisory committee):

Participant's full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which

includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (e.g., which includes, but is not limited to the reference's name, address, telephone numbers(s), e-mail address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

3. Committee Members' assistant(s) or organizational contact(s):

Assistant/organizational contact's full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which are kept with the member's respective advisory committee.

4. Originals or copies of the financial disclosure form, OGE Form 450, which the FACA committee members may be required to file in accordance with the requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, as amended, and E.O. 12674, as modified.

Revision of the Authority for Maintenance of the System to correct an inaccuracy in the citation for the Federal Advisory Committee Act (FACA), 5 U.S.C., Appendix 2; but to expand the authorities to include 5 U.S.C. App. (“Ethics in Government Act”); and Executive Order (E.O.) 12674 (as modified by E.O. 12731).

Revision of the language regarding the Purpose(s) for which the information in the system is maintained, for clarity and to note that [t]his system covers the personally identifiable information (PII) that is contained in the information about the members of the FCC's FACA committees, which includes, but is not limited to their contact data. The FCC's uses for this information include, but are not limited to:

1. Communicating effectively and promptly with these individuals (i.e., FCC's FACA committee members and alternatives);
2. Completing mandatory reports to the Congress and the General Services Administration (GSA) about FACA committee matters; and
3. Ensuring compliance with all ethical and conflict-of-interest requirements concerning the members of the FCC's FACA committees, including the requirements in OGE Form 450.

Revision of the language in Routine Use (2) “Public Access” to note that [t]he public can access information about the FCC's Federal Advisory Committee Act (FACA) committees at: <http://www.fcc.gov/encyclopedia/advisory-committee-fcc>, as well as in the searchable database found on the General Services Administration's (GSA) Web site at <http://www.fido.gov/facadatabase/>;

Revision of the language in Routine Use (5) “Congressional Inquiries” to note that a record from this system may be disclosed [w]hen requested by a Congressional office in response to an inquiry by an individual made to the Congressional office for the individual’s own records;

Revision of the language in Routine Use (6) “Government-wide Program Management and Oversight” to note that a record from this system may be disclosed [w]hen requested by the General Services Administration (GSA), the National Archives and Records Administration (NARA), and/or the Government Accountability Office (GAO) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906 (such disclosure(s) shall not be used to make a determination about individuals); when the U.S. Department of Justice (DOJ) is contacted in order to obtain that department’s advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or when the Office of Management and Budget (OMB) is contacted in order to obtain that office’s advice regarding obligations under the Privacy Act; and

Addition of Routine Use (7) to address any “breach of Federal data” situation(s) to comply with OMB Memorandum M-07-16 (May 22, 2007), as follows:

Routine Use (7) “Breach Notification” - A record from this system may be disclosed to appropriate agencies, entities, and persons when: (1) the Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information;



and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

Revision of the language regarding the Storage procedures for information in the system, for clarity and to note that the information in this system includes:

1. Paper documents, reports, and files (except OGE Form 450 files) that are maintained in file folders in file cabinets in the office suites of the Performance Evaluation and Records Management (PERM) and the Designated Federal Officers (DFOs) in the Bureaus and Offices (B/Os);
2. Electronic data, records, and files that are stored in the FCC's computer network databases; and
3. Original and any copies (paper format) of OGE Form 450 files, documents, and records are maintained in file folders in file cabinets in the OGC office suite.

Revision of the language regarding the Retrievability of information in the system, for clarity and to note that:

1. The FACA records (except OGE Form 450 files) are grouped primarily by the name of the FACA committee or subcommittee. Under this filing hierarchy, records can then be retrieved by the name of the committee member; and

2. OGE Form 450 files are retrieved by the individual's name or other programmatic identifier assigned to the individual on whom they are maintained.

Revision of the language regarding the Safeguards for information in the system, for clarity and to note that:

1. FACA paper records documents, records, and files (except OGE Form 450 files) are maintained in file cabinets in the office suites of PERM and the DFO's Bureau or Office (B/O). These file cabinets are locked at the end of each business day. Access to each office suite is through a card-coded main door. Access to these files is restricted to the PERM supervisors and staff and to the DFO's authorized supervisors and staff in each Bureau or Office;
2. Paper copies of OGE Form 450 files, documents, and records are maintained in file cabinets in the OGC office suite. These file cabinets are locked at the end of each business day. Access to the OGC office suite is through a card-coded main door. Access to these files is restricted to OGC supervisors and staff; and
3. Access to the FACA electronic records, files, and data, which are housed in the FCC's computer network databases, is restricted to authorized PERM supervisors and staff; to the supervisors and staff in each DFO's Bureau/Office; to the OGC supervisors and staff for OGE Form 450 files; and to the Information Technology Center (ITC) staff and contractors, who maintain the FCC's computer network. Other FCC employees and contractors may be granted access only on a "need-to-know" basis. The FCC's computer network databases are protected by the FCC's security protocols,

which include controlled access, passwords, and other IT safety and security features.

Information resident on the FACA database servers is backed-up routinely onto magnetic media. Back-up tapes are stored on-site and at a secured, off-site location.

Revision of the language regarding the Retention and Disposal of information in the system, for clarity and to note that [t]he FCC maintains and disposes of these records in accordance with General Records Schedule 26 (GRS 26), “Temporary Commissions, Boards, Councils and Committees,” issued by the National Archives and Records Administration (NARA). Under the GRS 26:

The FCC maintains and disposes of these records in accordance with General Records Schedule 26 (GRS 26), “Temporary Commissions, Boards, Councils and Committees,” issued by the National Archives and Records Administration (NARA). Under the GRS 26:

1. (a) FACA files documenting the Commission’s establishment, membership, policy, organization, deliberations, findings, and recommendations (except OGE Form 450 files) are transferred to the National Archives on termination of the Commission. Earlier periodic transfers are authorized for committees operating for three years or longer (N1-GRS-07-5 item). These files include such records as:
  - Other materials that document the organization and functions of the Commission and original charter, renewal and amended charters, organization charts, functional statements, directives or memorandums to staff concerning their responsibilities, and its components;

- Agendas, briefing books, minutes, testimony, and transcripts of meetings and hearings as well as audiotapes and/or videotapes of meetings and hearings which were not fully transcribed;
- One copy each of reports, studies, pamphlets, posters (2 copies) and other publications produced by or for the commission as well as news releases, commissioners' speeches, formal photographs and other significant public affairs files;
- Correspondence, subject and other files maintained by key commission staff, such as the chair, executive director, and legal counsel, documenting the functions of the commission;
- Substantive records relating to research studies and other projects, including unpublished studies and reports and substantive research materials (may include electronic data);
- Questionnaires, surveys and other raw data accumulated in connection with research studies and other projects where the information has been consolidated or aggregated in analyses, reports, or studies covered by Item 2(a) (may include data maintained electronically);
- Records created to comply with the provisions of the Government in the Sunshine Act, annual reports to Congress describing the agency's compliance with the act;
- Documentation of subcommittees, working groups, or other subgroups of advisory committees, that support their reports and recommendations to the full or parent

committee. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records; and

- Documentation of formally designated subcommittees and working groups. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records.

(b) FACA files (paper and electronic formats) that relate to day-to-day advisory committee activities and/or do not contain unique information of historical value are destroyed or deleted when three years old (N1-GRS-07-1 item 2b). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure. These files include such records as:

- Correspondence, reference and working files of Commission staff (excluding files covered by Item 2(a));
- Audiotapes and videotapes of Commission meetings and hearings that have been fully transcribed, informal still photographs and slides of Commission members and staff, meetings, hearings, and other events;
- Other routine records, such as public mail, requests for information, consultant personnel files, records relating to logistical aspects of Commission meetings and hearings, etc.; and
- Extra copies of records described in Item 2(a), e.g., copies of meeting agenda and minutes distributed to commission members and staff, files accumulated by agencies on interagency bodies other than the secretariat or sponsor.

Notes: Prior to destruction/deletion, NARA, in consultation with FCC staff, will review these records and may identify files that warrant permanent retention. Such records will be transferred to the National Archives at the time that related permanent records are transferred (N1-GRS-07-1 item 2b Note).

2. Copies of FACA commission records, e.g., agendas, meeting minutes, final reports, and related records created by or documenting the accomplishments of boards and commissions are destroyed when three years old (N1-GRS-04-1 item 3). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.
3. Records that are maintained by FACA committee management officers that pertain to a FACA committee's establishment, appointment of members, and operation and termination, etc., are destroyed when six years old (N1-GRS-04-1 item 4). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.
4. OGE Form 450 files, documents, and records (including both paper and electronic formats) are generally retained for six years after filing following dissolution of the FACA Committee (except when filed by or with respect to a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed. In such cases, the records are generally destroyed one year after the date the individual ceased being under Senate consideration for appointment. However, if any records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation). The paper records are destroyed by shredding. The electronic records are destroyed by electronic deletion or erasure.

Revision of the language regarding the System Manager(s) and Address of the system, for clarity and to note that the system manager is the Assistant

Managing Director, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554.

Revision of the Notification, Record Access, and Contesting Record

Procedures for the system, for clarity and to note that individuals seeking information about themselves in this system should address their inquiries to the Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, or <http://transition.fcc.gov/omd/privacyact/request.html>.

Revision of the language regarding the Record Source Categories for the system, for clarity and to note that [i]nformation in this system includes, but is not limited to the information that is obtained from the FACA committee members, including their OGE Form 450; the Designated Federal Officer (DFO) reporting on FACA committee membership and activities; and the results of the work of the advisory committees.

Revision of, updating, or otherwise changing the information in the SORN, as necessary, to make it conform to the way the FCC's bureaus and offices manage the membership, functions, and activities of their FACA committees.

This notice meets the requirement documenting the changes to the system of records that the FCC maintains, and provides the public, Congress, and the Office of Management and Budget (OMB) an opportunity to comment.

## **FCC/OMD-3**

### **SYSTEM NAME:**

Federal Advisory Committee Act (FACA) Membership Files.

### **SECURITY CLASSIFICATION:**

The FCC's Security Operations Center (SOC) has not assigned a security classification to this system of records.

### **SYSTEM LOCATION:**

1. General Files: Associate Managing Director-Performance Evaluation and Records  
Management (PERM), Office of Managing Director (OMD), Federal Communications  
Commission (FCC), 445 12th Street, SW, Washington, DC 20554; (202) 418-2178.
2. Financial Disclosure Files (i.e., OGE Form 450 and FCC Form A54A): Office of General  
Counsel (OGC), Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, SW,  
Washington, DC 20554; (202) 418-1720.
3. Committee-Specific Files: Information concerning the FCC's current FACA Committees  
may be found at: <http://www.fcc.gov/encyclopedia/advisory-committees-fcc>.



## **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The categories of individuals in this system include, but are not limited to those individuals who are:

1. Members of Federal Advisory Committee Act (FACA) committees (“advisory committee” or “committee”) sponsored or co-sponsored by the Federal Communications Commission (FCC);
2. Individual participants in FACA working groups/subcommittees (who are not necessarily appointed members of the advisory committee); and
3. Administrative Assistant(s) or other similar contact(s) within the organization that an advisory committee member represents.

## **CATEGORIES OF RECORDS IN THE SYSTEM:**

The categories of records in this system include, but are not limited to:

1. FACA Committee Members:

Member’s full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), work experience, educational attainment, and references), nominee’s qualifications statement, and/or letters of recommendation (e.g., which includes, but is not limited to the reference’s name, address, telephone numbers(s), e-mail address(es), and personal evaluation/recommendation of their

colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

2. Individual participants in FACA working groups/subcommittees (who are not necessarily members of the advisory committee):

Participant's full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (e.g., which includes, but is not limited to the reference's name, address, telephone numbers(s), e-mail address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

3. Committee Members' assistants or organizational contacts:

Assistant/organizational contact's full name, home address(es), organization represented, home e-mail address(es), home telephone and personal cellphone number(s), fax number(s), resume (e.g., which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home e-mail address(es), and related

information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which are kept with the member's respective advisory committee.

4. Originals or copies of the financial disclosure form, OGE Form 450, which the FACA committee members may be required to file in accordance with the requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, as amended, and E.O. 12674, as modified.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2; 5 U.S.C. App. ("Ethics in Government Act"); and Executive Order (E.O.) 12674 (as modified by E.O. 12731).

#### **PURPOSE(S):**

This system covers the personally identifiable information (PII) that is contained in the information about the members of the FCC's Federal Advisory Committee Act (FACA) committees, which includes, but is not limited to their contact data. The FCC's uses for this information include, but are not limited to:

1. Communicating effectively and promptly with these individuals (i.e., FCC's FACA committee members);
2. Completing mandatory reports to the Congress and the General Services Administration (GSA) about FACA advisory committee matters; and

3. Ensuring compliance with all ethical and conflict-of-interest requirements concerning the members of the FCC's FACA advisory committees, including the requirements in OGE Form 450.

## **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING**

### **CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Information about individuals in this system of records may routinely be disclosed under the following conditions:

1. Committee Communication and Reporting - A record in this system may be disclosed to the Chair (or Vice Chair) of the Advisory Committee for purposes of determining membership on appropriate subcommittees or assignment of tasks to achieve the committee's goals, and/or used to distribute information to the FACA committee members for the purposes of conducting meetings, general committee business, and/or preparing reports on the membership and work of the committee;
2. Public Access - The public can access information about the FCC's Federal Advisory Committee Act (FACA) committees at: <http://www.fcc.gov/encyclopedia/advisory-committee-fcc>, as well as in the searchable database found on the General Services Administration's (GSA) Web site at <http://www.fido.gov/facadatabase/>;
3. Adjudication and Litigation - Where by careful review, the agency determines that the records are both relevant and necessary to litigation and the use of such records is deemed by the Agency to be for a purpose that is compatible with the purpose for which the Agency collected the records, these records may be used by a court or adjudicative body in a

proceeding when: (a) The Agency or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation;

4. Law Enforcement and Investigation - Where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be shared with appropriate Federal, State, or local authorities either for purposes of obtaining additional information relevant to a FCC decision or for referring the record for investigation, enforcement, or prosecution by another agency;
5. Congressional Inquiries - When requested by a Congressional office in response to an inquiry by an individual made to the Congressional office for the individual's own records;
6. Government-wide Program Management and Oversight - When requested by the General Services Administration (GSA), the National Archives and Records Administration (NARA), and/or the Government Accountability Office (GAO) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906 (such disclosure(s) shall not be used to make a determination about individuals); when the U.S. Department of Justice (DOJ) is contacted in order to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act; or when the Office of Management and Budget is contacted in order to obtain that office's advice regarding obligations under the Privacy Act; and
7. Breach Notification - A record from this system may be disclosed to appropriate agencies, entities, and persons when: (1) the Commission suspects or has confirmed that the security or

confidentiality of information in the system of records has been compromised; (2) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,  
RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The information in this system includes:

1. Paper documents, records, and files (except OGE Form 450 files) that are maintained in file folders in file cabinets in the office suites of the Performance Evaluation and Records Management (PERM) and the Designated Federal Officers (DFOs) in the Bureaus and Offices (B/Os);
2. Electronic data, records, and files that are stored in the FCC's computer network databases;  
and

3. Original and any copies (paper format) of OGE Form 450 files, documents, and records are maintained in file folders in file cabinets in the OGC office suite.

#### **RETRIEVABILITY:**

1. The FACA records (except OGE Form 450 files) are grouped primarily by the name of the FACA committee or subcommittee. Under this filing hierarchy, records can then be retrieved by the name of the committee member; and
2. OGE Form 450 files are retrieved by the individual's name or other programmatic identifier assigned to the individual on whom they are maintained.

#### **SAFEGUARDS:**

1. FACA paper records documents, records, and files (except OGE Form 450 files) are maintained in file cabinets in the office suites of PERM and the DFO's Bureau or Office (B/O). These file cabinets are locked at the end of each business day. Access to each office suite is through a card-coded main door. Access to these files is restricted to the PERM supervisors and staff and to the DFO's authorized supervisors and staff in each Bureau or Office;
2. Paper copies of OGE Form 450 files, documents, and records are maintained in file cabinets in the OGC office suite. These file cabinets are locked at the end of each business day. Access to the OGC OGC office suite is through a card-coded main door. Access to these files is restricted to OGC supervisors and staff; and

3. Access to the FACA electronic records, files, and data, which are housed in the FCC's computer network databases, is restricted to authorized PERM supervisors and staff; to the supervisors and staff in each DFO's Bureau/Office; to the OGC supervisors and staff for OGE Form 450 files; and to the Information Technology Center (ITC) staff and contractors, who maintain the FCC's computer network. Other FCC employees and contractors may be granted access only on a "need-to-know" basis. The FCC's computer network databases are protected by the FCC's security protocols, which include controlled access, passwords, and other IT safety and security features. Information resident on the FACA database servers is backed-up routinely onto magnetic media. Back-up tapes are stored on-site and at a secured, off-site location.

#### **RETENTION AND DISPOSAL:**

The FCC maintains and disposes of these records in accordance with General Records Schedule 26 (GRS 26), "Temporary Commissions, Boards, Councils and Committees," issued by the National Archives and Records Administration (NARA). Under the GRS 26:

1. (a) FACA files documenting the Commission's establishment, membership, policy, organization, deliberations, findings, and recommendations (except OGE Form 450 files) are transferred to the National Archives on termination of the Commission. Earlier periodic transfers are authorized for committees operating for three years or longer (N1-GRS-07-5 item). These files include such records as:



- Other materials that document the organization and functions of the Commission and original charter, renewal and amended charters, organization charts, functional statements, directives or memorandums to staff concerning their responsibilities, and its components;
- Agendas, briefing books, minutes, testimony, and transcripts of meetings and hearings as well as audiotapes and/or videotapes of meetings and hearings which were not fully transcribed;
- One copy each of reports, studies, pamphlets, posters (2 copies) and other publications produced by or for the commission as well as news releases, commissioners' speeches, formal photographs and other significant public affairs files;
- Correspondence, subject and other files maintained by key commission staff, such as the chair, executive director, and legal counsel, documenting the functions of the commission;
- Substantive records relating to research studies and other projects, including unpublished studies and reports and substantive research materials (may include electronic data);
- Questionnaires, surveys and other raw data accumulated in connection with research studies and other projects where the information has been consolidated or aggregated in analyses, reports, or studies covered by Item 2(a) (may include data maintained electronically);

- Records created to comply with the provisions of the Government in the Sunshine Act, annual reports to Congress describing the agency's compliance with the act;
- Documentation of subcommittees, working groups, or other subgroups of advisory committees, that support their reports and recommendations to the full or parent committee. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records; and
- Documentation of formally designated subcommittees and working groups. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records.

(b) FACA files (paper and electronic formats) that relate to day-to-day advisory committee activities and/or do not contain unique information of historical value are destroyed or deleted when three years old (N1-GRS-07-1 item 2b). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure. These files include such records as:

- Correspondence, reference and working files of Commission staff (excluding files covered by Item 2(a));
- Audiotapes and videotapes of Commission meetings and hearings that have been fully transcribed, informal still photographs and slides of Commission members and staff, meetings, hearings, and other events;

- Other routine records, such as public mail, requests for information, consultant personnel files, records relating to logistical aspects of Commission meetings and hearings, etc.; and
- Extra copies of records described in Item 2(a), e.g., copies of meeting agenda and minutes distributed to commission members and staff, files accumulated by agencies on interagency bodies other than the secretariat or sponsor.

Notes: Prior to destruction/deletion, NARA, in consultation with FCC staff, will review these records and may identify files that warrant permanent retention. Such records will be transferred to the National Archives at the time that related permanent records are transferred (N1-GRS-07-1 item 2b Note).

2. Copies of FACA commission records, e.g., agendas, meeting minutes, final reports, and related records created by or documenting the accomplishments of boards and commissions are destroyed when three years old (N1-GRS-04-1 item 3). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.
3. Records that are maintained by FACA committee management officers that pertain to a FACA committee's establishment, appointment of members, and operation and termination, etc., are destroyed when six years old (N1-GRS-04-1 item 4). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.
4. OGE Form 450 files, documents, and records (including both paper and electronic formats) are generally retained for six years after filing following dissolution of the FACA Committee (except when filed by or with respect to a nominee for an appointment requiring confirmation

by the Senate when the nominee is not appointed. In such cases, the records are generally destroyed one year after the date the individual ceased being under Senate consideration for appointment. However, if any records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation). The paper records are destroyed by shredding. The electronic records are destroyed by electronic deletion or erasure.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Managing Director, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554.

**NOTIFICATION PROCEDURE:**

Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, or <http://transition.fcc.gov/omd/privacyact/request.html>.

**RECORD ACCESS PROCEDURES:**

Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, or <http://transition.fcc.gov/omd/privacyact/request.html>.

**CONTESTING RECORD PROCEDURES:**

Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554, or <http://transition.fcc.gov/omd/privacyact/request.html>.

**RECORD SOURCE CATEGORIES:**

Information in this system includes, but is not limited to the information that is obtained from the FACA committee members, including their OGE Form 450 filings; the Designated Federal Officer (DFO) reporting on FACA committee membership and activities; and the results of the work of the advisory committees.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

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